

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:	:	Case No. 14-52934
AMT Machine Systems, Ltd.	:	Chapter 11
	:	
Debtor.	:	Judge Hoffman

**MOTION OF DEBTOR TO DISMISS CASE**

AMT Machine Systems, Ltd., the Debtor and Debtor in Possession (the “Debtor”), moves the Court for an Order dismissing the above-captioned bankruptcy case for cause, pursuant to 11 U.S.C. 1112(b). A memorandum in support follows.

Respectfully submitted,

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## **MEMORANDUM IN SUPPORT**

### **BACKGROUND INFORMATION**

1. On April 25, 2013 (the “Petition Date”), the Debtor commenced this case by filing a voluntary petition under Chapter 11 of the Bankruptcy Code.

2. Pursuant to 11 U.S.C. §§ 1107(a) and 1108, the Debtor is operating its business and managing its affairs as debtor in possession. A creditors committee has been appointed in this case.

3. The Debtor has been in operation since July, 1996. It is an Ohio Limited Liability Company with 27 members.

4. The Debtor’s business derived from its development of breakthrough technology in the field of intelligent motion-control motors. The Debtor’s predecessor company, AMT Systems Engineering, Inc., worked in the late 1980s to develop a robotic walking vehicle for the U.S. Government. The Debtor capitalized on the inventions of its predecessor, finding multiple applications for the technology in embedded robotics for complex machinery.

5. The Debtor’s primary business development was in the field of machine tools. A machine tool is a machine used for shaping or machining metal or other materials into smaller, refined parts. The machine tool developed by the Debtor was a type of “screw machine.” Screw machines operate by attaching the subject material—a piece of metal to be formed into a part—to a spindle. The spindle rotates at high speeds while a cutting tool is held against the metal workpiece to shape it through cutting, boring, grinding, shearing or other forms of deformation.

6. Traditional screw machines were controlled by hand via hand wheels or levers, with humans guiding the cutting tools against the spinning material. More advanced machinery is automated by computer through a process called numerical control. Computer Numerical

Control, or CNC, is the process through which the operation of machine tools is automated by precisely programmed commands from a control system. Using this technology, the Debtor has developed a state-of-the-art control system that is highly scalable for multiple applications.

7. The primary product developed by the Debtor was the CNC-based single spindle screw machine called the “ServoCam.” The production of the ServoCam product involves the development and manufacturing of two distinct subsystems: the mechanical components of the machine (“Mechanical Systems”), which consists of the machine enclosure and physical parts of the machine, and the CNC system for the machines (“Control Systems”), including the computer systems, programming interface and intelligent motors. In addition to the development and sales of ServoCam systems, the Debtor maintains ongoing support for the ServoCam customer base. The installed machine base of over 800 machines represents approximately \$25 million in equipment, and 250 of the machines are located in Ohio. The Debtor’s Control System team is indispensable for keeping the ServoCam CNC controls functioning on the installed machine base.

8. While the ServoCam product line was successful, the Debtor found that there were certain industries and applications where more advanced machine tools were needed. To that end, in January 2013, the Debtor entered into a Master Distributor Agreement (the “Distributor Agreement”) with Lico Machinery, Ltd., a Taiwan ROC Limited Liability Company (the “Lico Manufacturer”) to become the exclusive U.S. master distributor for CNC Screw Machines manufactured by the Lico Manufacturer. The Distributor Agreement allowed the Debtor to add to its product offering two Lico machines that had capabilities beyond those of the ServoCam line. This new arrangement was intended to greatly supplement the Debtor’s income.

9. Aside from the development and sales of CNC-based screw machines, the Debtor earns revenue through various engineering consulting services and client services. The Debtor is party to an intelligent motor development contract with the Electromechanical Automation Division of Parker-Hannifin Corporation (“Parker-Hannifin”), which products will be used in various military applications. The Debtor is also involved in the ongoing maintenance and support of client-installed Control Systems.

10. In 2013, a series of adverse events left the Debtor with insufficient operating capital to fund operations. In particular, two consecutive quarters of exceptionally low ServoCam bookings, a half-million dollar ServoCam order cancellation, and a slower-than-expected ramp-up in Lico sales left the company with insufficient operating capital to pay vendors and purchase inventory for new ServoCam orders. The Debtor was barely able to fulfill pre-paid orders for ServoCam products. At the end of January, 2014, due to cash flow issues, the Debtor was forced to lay off production and sales/marketing personnel. Despite the staffing reductions, the Debtor was able to keep its engineering team intact, enabling it to continue its intelligent-motor development activities with Parker-Hannifin and other engineering consulting activities.

11. Because of cash flow issues, on or about April 9, 2014, the Debtor sold the Mechanical Systems portion of the ServoCam product line, including the associated trademarks, products and services to an entity called Advanced Machinery Solutions, LLC (“AMS”). Through the sale of the Mechanical Systems product line to AMS, the Debtor attempted to refocus its business on the engineering portion of its venture: intelligent motor development and Control System development. As part of its agreement with AMS, the Debtor had been retained as the exclusive supplier for all Control System products and services related to the Mechanical Systems produced by AMS.

12. Moreover, in early 2014, the Lico Manufacturer determined that the Debtor was in breach of the Distributor Agreement and terminated it due to slow sales and solvency issues. Effective February 14, 2014, the Debtor assigned whatever interest it had in the Distributor Agreement to AMS and entered into a sublease arrangement at the facility in which the Debtor operates its business. The Debtor also assigned a lease for a forklift to AMS. Under that agreement, the Debtor is entitled for a period of time to a finder's fee for the sale of any Lico machines through the Distributor Agreement which come from the Debtor's current set of sales contacts.

13. The Debtor filed this Chapter 11 proceeding in order to reorganize its financial affairs, preserve the going concern value of its assets, and to provide a substantive and procedural mechanism for the realization of that value, so as to maximize the value of its assets for the benefit of all parties in interest.

14. Recently AMS advised the Debtor that it decided against continuing to manufacture ServoCam equipment. This decision eliminated the Debtor's projected revenues from the sale of control systems to AMS which was projected to be about a third of the total projected gross profits. Without the additional component purchase volume from manufacturing, AMT has determined that it is not economically feasible to continue to provide ServoCam service. The ServoCam service was approximately one-third (1/3) of AMT's projected gross profit.

15. The final situation that occurred that led to the decision to file this Motion is that the near term contract with Parker-Hannifin to provide it with intelligent motor technology to then be provided to its customer, a defense contractor. The contract between the Debtor and Parker-Hannifin has been delayed due to protracted procurement negotiations between Parker-

Hannifin and its customer. As a result of these three factors, AMT is no longer able to remain viable as a going concern.

## **LAW AND ARGUMENT**

### **1. Legal Standards for Determining pursuant to §1112(b) of the Bankruptcy Code**

Section 1112(b) of the Bankruptcy Code, as amended, sets forth the requirements for determining cause for dismissal:

Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interest of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause. (emphasis added).

11 U.S.C. §1112(b)(1). Thus, the Debtor must establish cause for dismissal of a chapter 11 case. The definition of “cause” for purposes of 11 U.S.C. §1112(b) is not limited to the specific circumstances enumerated in subsection (4) of 11 U.S.C. §1112(b). Hatcher v. U.S. Trustee (In re Hatcher), 218 B.R. 441, 448 (BAP 8th Cir. 1998).

Prior to the amendments promulgated by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”), approval of a motion to convert or dismiss a case under 11 U.S.C. §1112 was discretionary. In re Emergystat of Sulligent, Inc., 2008 WL 597613 (Bankr.E.D.Tenn. 2008) (citing In re Gateway Access Solutions, Inc., 374 B.R. 556 (Bankr.M.D.Pa. 2007)). The pre-BAPCPA Code provided that a court “*may* dismiss a case...” upon such a motion. 11 U.S.C. § 1112(b) (prior to 2005 amendments) (emphasis added). The BAPCPA amendments to 11 U.S.C. §1112 changed the statutory language from permissive to

mandatory. In re Emergystat, 2008 WL 597613 at \*5. Accordingly, this Court must dismiss a case if the appropriate factors are met.

2. Dismissal is in the best interest of creditors

As opposed to the conversion of this case which would result in the appointment of a Chapter 7 Trustee with the attendant fees and expenses and recognizing based upon the operating report that was filed for the period ending July 31, 2014 (Doc. 66), there are accrued post-petition obligations owed to employees totaling in excess of \$82,000.00. The liquidation value of the assets would be less than the total post-petition obligations owed. As a result, any conversion would result in no funds available to pay any unsecured creditors, with all proceeds paying administrative claims.

While the Debtor availed it of the jurisdiction of this Court, it was done so in an effort to reorganize the obligations. As a result of the loss of business as detailed above, the Debtor does not have the ability to propose a confirmable plan.

**CONCLUSION**

Based upon the foregoing, it is respectfully requested that the Court dismiss this Chapter 11 proceeding, and that the Court grant such other and further relief as is appropriate.

Respectfully submitted,

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**NOTICE OF MOTION OF DEBTOR TO DISMISS CASE**  
**AND CERTIFICATE OF SERVICE**

The Debtor and Debtor in Possession have filed a Motion to Dismiss the case.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the Application, **then on or before twenty-one (21) days from the date set forth in the certificate of service for the Application**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to Clerk, United States Bankruptcy Court, 170 North High Street, Columbus, Ohio 43215, OR your attorney must file a response using the court's ECF system.

The court must **receive** your response on or before the date set forth above.

You must also send a copy of your response either by 1) the court's ECF System, or by 2) regular U.S. Mail to:

United States Trustee  
170 North High Street, Suite 200  
Columbus, Ohio 43215

Myron N. Terlecky, Esq.  
Strip, Hoppers, Leithart, McGrath & Terlecky Co., LPA  
575 South Third Street  
Columbus, Ohio 43215

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Application and may enter an order granting that relief without further notice or hearing.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 25, 2014, a copy of the foregoing MOTION OF DEBTOR TO DISMISS CASE was served on the following registered ECF participants, **electronically** through the court's ECF system at the email address registered with the court:

- Allen B Aimar
- Asst US Trustee (Col)
- Brian M Gianangeli
- Lawrence Hackett
- Marilyn McConnell
- Richard G Murray



and by **ordinary U.S. Mail** addressed to the Debtor, the Office of the United States Trustee, the Creditors' Committee, and all creditors and parties in interest as set forth on the attached mailing matrix.

/s/ Myron N. Terlecky  
Myron N. Terlecky (0018628)

Label Matrix for local noticing  
0648-2  
Case 2:14-bk-52934  
Southern District of Ohio  
Columbus  
Fri Aug 22 09:52:15 EDT 2014

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2375 Harrisburg Pike  
Grove City, OH 43123-1057

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Wilmington, NC 28411-7515

ADL Technology Inc.  
2727 Scioto Parkway  
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Advance CNC Machining  
aka Advance Apex, Inc.  
2375 Harrisburg Pike  
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Advanced Motion Controls  
3805 Calle Tecate  
Camarillo, CA 93012-5068

Allied Electronics Inc.  
659 Lakeview Plaza Blvd.  
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American Credit Systems, Inc.  
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Columbus, OH 43216-1001

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Columbus, OH 43266-0030

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William Tullos  
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Williams Controls Inc.  
14100 SW 72nd Avenue  
Portland, OR 97224-8095

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Columbia Gas of Ohio  
PO Box 742510  
Cincinnati, OH 45274-2510

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Ohio Developmental Services Agency	(u)Ohio Power Company	(d)Myron N Terlecky 575 S Third Street Columbus, OH 43215-5755
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(d)William Tullos 3297 North County Road 605 Sunbury, OH 43074-8323	End of Label Matrix Mailable recipients 122 Bypassed recipients 4 Total 126
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